

OCA FILE

Leg. & letter

CHRONO

RECPT #

Chrono

OCA 86-1005

NOTE FOR: DCI
DDCI

FROM: Dave Gries

SUBJECT: FY-87 Intelligence Authorization Bill

REFERENCE: Memo to DCI from D/OCA dated 17 March 1986
Subject: Leaks Legislation

As I pointed out in the reference memo, the Department of Justice raised strong objections to the leaks legislation in the FY-87 Intelligence Authorization Bill. In addition, the Justice Department raised objections to two other Agency-sponsored initiatives that would provide employees of the Intelligence Community immunity from civil suit and restrict the employment by foreign governments of former intelligence officers. The latter proposal also elicited objections from the Department of State and NSC.

Because of the controversial nature of these proposals, OMB decided to drop them from this year's Intelligence Authorization Bill. I believe both these proposals have merit and I recommend that you send the attached letter to the Attorney General which addresses the issues of employment of former intelligence officers with foreign powers and immunity from civil suit. The letter urges the Attorney General to support a legislative solution to the problem of civil suits brought against government employees, or in lieu of such relief, a government-wide indemnification program. In addition, the letter reaffirms our commitment to seek some restrictions on the employment by foreign powers of former intelligence officers and offers to work with the Justice Department to formulate appropriate legislation.

Attachment
as stated

Distribution:

Original - Addressee(s) w/attachment

1 - EXDIR	"
1 - Executive Registry	"
1 - D/CA	"
1 - DDL/OCA	"
1 - ExO/OCA	"
1 - OCA Chrono	"
1 - LEG/OCA/Subject Files:	Leaks
1 - General Counsel	FY-87 Intell/Auth Bill w/attachment
1 - DMP/Signer	

STAT OCA/LEG [redacted] pap (30 April 1986)

Central Intelligence Agency

CONFIDENTIAL



Washington, D.C. 20505

OCA-1442/86

06 MAY 1986

The Honorable Edwin Meese, III
The Attorney General
Washington, D.C. 20530

Dear Ed:

During consideration of the draft Intelligence Authorization Bill for Fiscal Year 1987, the Department of Justice raised objections to several legislative initiatives which the Agency had proposed. One of these proposals concerns legislation to criminalize unauthorized disclosures of classified information, a matter which I addressed in a separate letter to you. Two other proposals involve legislation to provide employees of the Intelligence Community immunity from civil suit and legislation that would restrict employment of former intelligence officers by foreign governments. I believe that both these proposals have a great deal of merit, and I only reluctantly agreed to withdraw them from this year's authorization bill.

I understand the Department has objections to our proposal to provide Intelligence Community employees immunity from civil suit because this would undercut attempts to pass a bill that would provide all Government employees immunity from civil suit. This was the same objection that we heard over a year ago when we first submitted our legislative proposal to provide immunity from civil suit. Unfortunately, I have not detected any progress toward passage of a government-wide bill during the intervening year.

I do not believe we can continue to wait in the vain hope that Congress will act on the government-wide bill. Our employees and those of other members of the Intelligence Community are being sued for actions performed within the scope of their employment, and the fear of such personal liability is having an adverse effect on morale and impairing effective intelligence work. To help alleviate this problem, we recently instituted a program within the Agency to indemnify employees for any judgment or fine entered against the employee if the General Counsel determines that the employee has been acting within the scope of employment. This program, however, does not entirely resolve the problem for our employees who still must face the difficulties of litigation, or the rest of the Intelligence Community which is not covered by the program. I believe that the legislative relief that we seek, which would substitute the Federal Government as defendant in lieu of the employee, is a reasonable solution to the problem.

However, if it is not possible to reach a consensus within the Executive Branch on a legislative solution, I would urge the Department of Justice to institute a government-wide indemnification plan to protect employees sued for actions they perform within the scope of their employment. I understand the Department is currently working on such a plan, and I would urge its speedy adoption.

The Department has also opposed our proposal to restrict former intelligence officers from being employed by foreign governments for a period of two years following termination of their employment with the Government. This proposal addressed the very serious problems of possible disclosure of classified information and the appearance of a conflict of interest posed by former intelligence officers working for foreign governments. I understand that the Department and other agencies were concerned about the broad scope of the proposed restriction. We would be willing to work with the Department to narrow the scope of the proposal so that it may receive favorable consideration during deliberations next year on the Intelligence Authorization Bill. However, we are not willing to abandon the idea that some limitations must be imposed on those officials who have access to sensitive information and who trade on their position to gain employment with hostile foreign powers.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence